

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
SARAH WHEELDON,)	
)	
Plaintiff)	
)	
v.)	Civil Action No.:
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES AND CLERK OF THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1442 and 1446, the United States of America, by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby removes to this Court the above-entitled action based on the following:

BACKGROUND

1. On or about April 2, 2008, Plaintiff Sarah Wheeldon ("Plaintiff") filed a complaint in the Dedham District Court, Norfolk County, Commonwealth of Massachusetts, entitled Sarah Wheeldon v. David Pales, Docket No. 0854CV0319 ("State Court Action"). Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the complaint and summons against Defendant David Pales ("Defendant") in the State Court Action is attached as Exhibit A.

2. In the State Court Action, Plaintiff seeks, among other things, a judgment against Defendant for personal injuries she alleges that she sustained as a result of an automobile accident in which Plaintiff was injured by an automobile operated by Defendant.

3. Pursuant to 28 U.S.C. § 2679, Plaintiff's exclusive remedy for injury arising from the alleged negligent acts of an employee of the United States is a suit against the United States under the provisions of the Federal Tort Claims Act.

TIMELINESS OF REMOVAL

4. If filed in a state court, such actions shall be removed to United States District Court at any time before trial. 28 U.S.C. § 2679(d)(2). This action is therefore removable to this Court.

JURISDICTION

5. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1442(a)(1) and 28 U.S.C. § 2679, which provides that the United States may remove to federal court a civil action filed against it in a state court.

VENUE

6. Venue lies in this Court pursuant to 28 U.S.C. §§ 1442 and 1446(a).

7. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal, together with a copy of the Notice of Removal, will be filed with the Clerk of the Dedham District Court, Norfolk County, Commonwealth of Massachusetts. A copy of the notice filed with that court will be sent to Plaintiff's counsel.

8. Pursuant to Local Rule 81.1(a), the United States will request from the Clerk of the Dedham District Court certified copies of all records and proceedings in the State Court Action and certified copies of all docket entries, including a copy of this Notice of Removal, and will file the same with this Court within thirty (30) days after filing of this Notice of Removal.

WHEREFORE the United States hereby removes the above-captioned action currently pending in the Dedham District Court to this Court for entry upon the docket of this Court and, upon

filing a copy of this Notice with the Clerk of the Dedham District Court, Norfolk County, Commonwealth of Massachusetts, that the Dedham District Court shall proceed no further.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Eve A. Piemonte Stacey
Eve A. Piemonte Stacey
Assistant United States Attorney
United States Attorney's Office
One Courthouse Way, Suite 9200
Boston, MA 02210
Tel: (617) 748-3188
Fax: (617) 748-3969
Eve.Stacey@usdoj.gov

Dated: August 12, 2008

CERTIFICATE OF SERVICE

I, Eve Piemonte Stacey, hereby certify that on this date, August 12, 2008, a true copy of the foregoing document was served on Plaintiff's counsel, at the following address:

Scott G. Gowen, Esq.
Law Offices of Scott G. Gowen
5 Liberty Road
Medway, MA 02053

/s/ Eve A. Piemonte Stacey
Eve A. Piemonte Stacey
Assistant United States Attorney